

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

Original Application No.20/576/2018

Date of Order: 27.08.2019

Between:

Pitla Mahesh, S/o. late P. Srinivasulu,
Aged about 29 years, Occ: Un-employee,
R/o. D. No. 22/638, Titisipeta, Mulapeta, Nellore,
SPSR Nellore District – 524 003.

... Applicant

And

1. Union of India,
Department of Posts,
Central Secretariat Buildings,
New Delhi,
Rep. by its Secretary.
2. The Director General of Postal Services,
Dak Bhavan, Sansad Marg,
New Delhi – 110 001.
3. The Post Master General,
Vijayawada Region, Vijayawada,
Krishna District.
4. The Superintendent of Post Offices,
Nellore Division, Nellore,
SPSR Nellore District.
5. The Inspector Posts,
Nellore West Sub-Division, Nellore,
SPSR Nellore District.

... Respondents

Counsel for the Applicant ... Mr. J. Pardha Saradhi

Counsel for the Respondents ... Mr. P. Laxman, Advocate for
Mr. A. Vijay Bhaskar Babu,
Addl. CGSC

CORAM:

Hon'ble Mr. B.V. Sudhakar, Member (Admn.)

ORAL ORDER
{As per B.V. Sudhakar, Member (Admn.) }

2. OA is filed for not granting compassionate appointment to the applicant.

3. Brief facts of the case are that the applicant's father while working as Postman died in harness on 19.07.2016 due to ill-health. Applicant's mother represented to the respondents to provide compassionate appointment to the applicant. Respondents considered the case on 06.11.2017, 16.01.2018 and 05.02.2018 and rejected the same due to limited number of vacancies and relative merit. Order of rejection was communicated to the applicant on 27.02.2018. Aggrieved, OA has been filed.

4. Contentions of the applicant are that respondents cannot reject the claim of the applicant on the ground of lack of vacancies. Applicant has submitted certificates required for granting compassionate appointment. Owing to the circumstances in which the applicant was placed, he should have been considered for granting compassionate appointment. Order of the rejection is illegal and arbitrary.

5. Respondents contested the OA by filing a reply statement.

6. Heard learned counsel for both sides and perused the pleadings on record.

7 (I) Compassionate appointment is granted to a dependent family member of the deceased employee in order to enable the family to

overcome any financial distress that the family may face due to the sudden loss of the bread-winner. Therefore, the essential ingredient for considering the case of a candidate for compassionate appointment is the indigent circumstances in which the candidate is placed. Respondents have considered the case of the applicant by placing the same before the Circle Relaxation Committee (for short "CRC") on three different dates viz., 06.11.2017, 16.01.2018 and 05.02.2018. Case of the applicant could not be considered because of lack of vacancies as well as relative merit as per rules in vogue. The family of the applicant was also paid death benefits to the tune of Rs.5,44,445/-. Wife of the deceased employee has been granted monthly family pension of Rs.9000 plus DR. Respondents have followed an objective system of allotment of points on different attributes to assess the indigent circumstances in which the applicant was placed. Applicant got 44 points as stated in para 11 of the reply statement. Reckoning the above facts, CRC after the considering the applicant's case on three occasions has rejected the request of the applicant for compassionate appointment. Respondents have also cited number of judgments of the Hon'ble Supreme Court in support of their assertions.

(II) As seen from the above, respondents have been fair in considering the case of the applicant on three occasions. Based on relative merit and availability of vacancies, applicant could not make it and hence, was not offered compassionate appointment. Procedure adopted by the respondents has been transparent and objective. Applicant got 44 points which were not adequate enough to merit

selection based on the relative merit points system, set up by the respondents.

(III) Learned counsel for the applicant stated that the impugned order does not contain any details. However, it is clearly stated in the impugned order that the case could not be considered due to limited number of vacancies and on relative merit. Even by elaborating the impugned order, the outcome would have been the same since on relative merit, applicant could not be selected. Furnishing additional details would only be an empty formality. An empty formality need not be complied with as per the Hon'ble Supreme Court judgment in *Haryana Financial Corpn. v. Kailash Chandra Ahuja*, (2008) 9 SCC 31.

(IV) Further, Hon'ble Supreme Court has observed in a catena of judgments that compassionate appointment cannot be sought as a matter of right and that rules laid down have been fulfilled to offer compassionate appointment when a vacancy exists, as under:

***Himachal Road Transport Corporation vs Dinesh Kumar*, (1996) 4 SCC 560, at page 563:**

“10. We are of the view that the Himachal Pradesh Administrative Tribunal acted illegally and without jurisdiction, in passing the orders dated 27.3.1995 and 6.3.1995 and in directing that the respondents be appointed in the regular clerical posts forthwith. In the absence of a vacancy it is not open to the Corporation to appoint a person to any post. It will be a gross abuse of the powers of a public authority to appoint persons when vacancies are not available. If persons are so appointed and paid salaries, it will be a mere misuse of public funds, which is totally unauthorised. Normally, even if the Tribunal finds that a person is qualified to be appointed to a post under the kith and kin policy, the Tribunal should only give a direction to the appropriate authority to consider the case of the particular applicant in the light of the relevant rules and subject to the availability of the post. It is not open to the Tribunal either to direct the appointment of any person to a post or direct the authorities concerned to create a supernumerary post and then appoint a person to such a post.”

LIC vs. Asha Ramachandra Ambekar, (1994) 2 SCC 718, at page 721:

“The courts should endeavor to find out whether a particular case in which sympathetic considerations are to be weighed falls within the scope of law. Disregardful of law, however, hard the case may be, it should never be done. In the very case itself, there are regulations and instructions which we have extracted above. The court below has not even examined whether a case falls within the scope of these statutory provisions. Clause 2 of sub-clause (iii) of Instructions makes it clear that relaxation could be given only when none of the members of the family is gainfully employed. Clause 4 of the circular dated January 20, 1987 interdicts such an appointment on compassionate grounds. The appellant Corporation being a statutory Corporation is bound by the [Life Insurance Corporation Act](#) as well as the Statutory Regulations and Instructions. They cannot be put aside and compassionate appointment be ordered.”

‘That the High Courts and Administrative Tribunals cannot give direction for appointment of a person on compassionate grounds, but can merely direct consideration of the claim for such an appointment.’

The Hon’ble Apex Court has laid down the law in ***Hindustan Aeronautics Ltd vs. A. Radhika Thirumalai, (1996) 6 SCC 394*** that:

‘an appointment on compassionate ground has to be given in accordance with the relevant rules and guidelines that have been framed by the authority concerned and no person can claim appointment on compassionate grounds in discharge of such rule or such guidance.’

Respondents have followed the relevant rules and regulations in examining the case of the applicant. There is no patent illegality or arbitrariness in processing the request of the applicant.

(V) Therefore, in view of the above, this Tribunal finds no reason to interfere on behalf of the applicant. Hence, OA is devoid of merit and merits dismissal and is accordingly ordered. There shall be no order as to costs.

(B.V. SUDHAKAR)
MEMBER (ADMN.)

Dated, the 27th day of August, 2019

evr